

Our Ref: 055983.2018
Contact: Louis Chen
Ph: 9821 9156
Date: 22 March 2018



PCU074239

Ms Ann-Maree Carruthers
Regional Director Sydney West
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Email: ann-maree.carruthers@planning.nsw.gov.au

Dear Ms Carruthers,

**Re: Draft Liverpool Local Environmental Plan 2008 Amendment 71
Rezoning of lands in Prestons from IN3 to E2**



Pursuant to Section 3.34 of the Environmental Planning and Assessment Act 1979 (EP&A Act), Liverpool City Council submits the attached planning proposal for Draft Liverpool Local Environmental Plan 2008 (Amendment 71).

The planning proposal seeks to rezone Lot 10 DP1003837 and Part Lot 11 DP1228445 in the locality of Prestons from IN3 Heavy Industrial to E2 Environmental Conservation. The minimum lot size and height of buildings controls applying to the sites will be amended to reflect the rezoning.

At its meeting on 7 February 2018 Council resolved to:

- *Provide in-principle support for the rezoning of Lot 10 DP1003837 and Lot 11 DP1228445 from IN3 – Heavy Industry to E2 – Environmental Conservation; and*
- *Delegates to the CEO to prepare a planning proposal and forward it to the Department of Planning and Environment seeking gateway determination.*

A copy of the planning proposal, Council resolution and report, and supporting documentation are attached. Council requests gateway determination on the planning proposal in accordance with Section 3.34 of the EP&A Act.

Should you require further information, please contact Louis Chen, Strategic Planner, on 9821 9156 or chenl@liverpool.nsw.gov.au.

Yours sincerely


Kiersten Fishburn
Chief Executive Officer

Encl.

Planning Proposal

Draft Amendment 71

Liverpool Local Environmental Plan 2008

**Rezoning of Lot 10 DP1003837 and Part Lot 11
DP1228445 in Prestons from IN3 to E2**

22 March 2018

Table of Contents

Introduction.....	2
Site description.....	2
Background	3
Delegation of plan making functions	4
Part 1 – Objectives	5
Part 2 – Explanation of provisions.....	5
Part 3 – Justification	6
Section A – Need for the planning proposal.....	6
Section B – Relationship to strategic planning framework.....	6
Section C – Environmental, social, and economic impact	11
Section D – State and Commonwealth interests	11
Part 4 – Mapping	12
Part 5 – Community Consultation	15
Part 6 – Project Timeline	15
Appendix 1: Evaluation criteria for the delegation of plan making functions.....	16

List of tables

Table 1: Occurrence of listed species on the subject sites	3
Table 2: Current and proposed controls for the subject sites	5
Table 3: Section 88B terms applying to the subject sites	6
Table 4: Anticipated project timeline	15

List of figures

Figure 1: Location of subject sites outlined in red	2
Figure 2: Site visit photo of Lot 10 DP1003837 from Lyn Parade.....	3
Figure 3: Site visit photo of Lot 11 DP1228445 from Progress Circuit	3
Figure 4: Location of threatened species	4
Figure 5: Threatened ecological communities on the subject sites	4
Figure 6: E2 zoning reflecting high ecological value of Lot 1 DP1143246 in Prestons	5
Figure 7: LLEP environmentally significant land overlay on the subject sites	8
Figure 8: Current zoning.....	12
Figure 9: Proposed zoning	13
Figure 10: Current maximum height of buildings	13
Figure 11: Proposed maximum height of buildings.....	14
Figure 12: Current minimum lot size	14
Figure 13: Proposed minimum lot size.....	15

Introduction

The planning proposal relates to two parcels of land in the Prestons Industrial Estate which are zoned IN3 – Heavy Industrial. The sites are 36 Lyn Parade (Lot 10 DP1003837) and Part Lot 11 Progress Circuit (Part Lot 11 DP1228445). The proposal seeks to rezone the subject lots to E2 – Environmental Conservation and amend the Minimum Lot Size and Height of Buildings controls to align with the rezoning.

The impetus for the planning proposal is to protect and maintain the sites of high ecological value and to ensure that the planning controls for the subject sites reflect the Section 88B Instruments burdening the land.

Ecological information in support of this planning proposal is sourced from:

- James, Teresa 2018, Expert Statement – Response to Facts and Contentions – Timpag Investments Pty Ltd v Liverpool City Council, Land & Environment Court Case 2017/00234018
- Cumberland Ecology 2016, Species Impact Statement (DA-1250/2016) for Timpag Investments Pty Ltd

Where inconsistencies exist between the two documents, James 2018 is utilised.

The following online sources are also utilised:

- NSW Office of Environment and Heritage BioNet Atlas 2018
- Commonwealth Department of the Environment and Heritage Protected Matters Search Tool 2018

Site description



Figure 1: Location of subject sites outlined in red (Nearmap 2017)

The total area of the two sites is approximately 4.2ha. Lot 10 is approximately 1ha and is bounded by warehouses on the north, south, and east, and has a frontage to Lyn Parade. Pt Lot 11 is approximately 3.2ha and is bounded by warehouses to the north and south east, has frontages to Lyn Parade to the east and Progress Circuit to the south, and is connected to the Maxwells Creek riparian corridor to the west. The section of Lot 11 DP1228445 not included in this proposal is already zoned SP2 (Drainage), indicating its primary purpose as a riparian buffer and drainage basin for Maxwells Creek. The SP2 zoning is highly restrictive in terms of development potential and offers ecological protection for this land as it is.



Figure 2: Site visit photo of Lot 10 DP1003837 from Lyn Parade



Figure 3: Site visit photo of Lot 11 DP1228445 from Progress Circuit

Background

The subject sites are currently undeveloped and are of high ecological value. Threatened flora, fauna, and ecological communities listed under the NSW *Biodiversity Conservation Act 2017* ("BC Act") and the Commonwealth *Environmental Protection and Biodiversity Conservation Act 1999* ("EPBC Act") are known to occur or may occur on the sites. These are listed in Table 1.

Table 1: Occurrence of listed species on the subject sites (Cumberland Ecology 2016; NSW BioNet Atlas 2018; James 2018)

Name	BC Act	EPBC Act	Presence
Downy Wattle <i>Acacia pubescens</i>	V	V	Known to occur
<i>Pultenaea parviflora</i>	E	V	Known to occur
Cumberland Plain Land Snail <i>Meridolum corneovirens</i>	E		May occur
Native Pear <i>Marsdenia viridiflora</i> subsp. <i>viridiflora</i>	EP		May occur
Green and Golden Bell Frog <i>Litoria aurea</i>	E	V	May occur
Cooks River/Castlereagh Ironbark Forest	EEC	CEEC	May occur*
Shale Gravel Transition Forest	EEC	CEEC	May occur*

Key: V – Vulnerable; E – Endangered; EP – Endangered Population; EEC – Endangered Ecological Community; CEEC – Critically Endangered Ecological Community. *Vegetation on the site is categorised as an intermediate of Cooks River/Castlereagh Ironbark Forest and Shale Gravel Transition Forest.

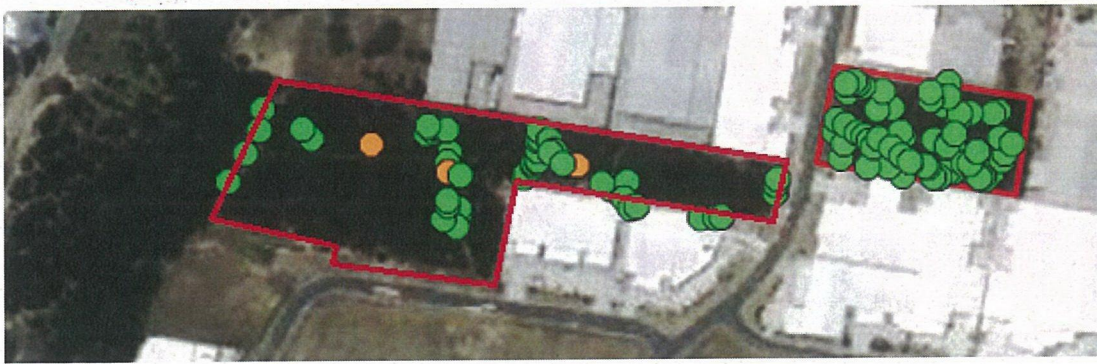


Figure 4: Location of threatened species (Cumberland Ecology 2016)
Key: Green – *Acacia pubescens*; orange – *Pultenaea parviflora*



Figure 5: Threatened ecological communities on the subject sites (Cumberland Ecology 2016)
Key: Green – Cooks River/Castlereagh Ironbark Forest or Shale Gravel Transition Forest
Purple – Cooks River Swamp Forest
Blue – River-flat Eucalypt Forest
Yellow – Shale Gravel Transition Forest

Lot 10 was registered in 1999 as part of the industrial subdivision of Lot 1 DP626996. As part of the development consent for the subdivision, Lot 10 was burdened by a Section 88B Instrument under the *Conveyancing Act 1919* which required the permanent protection and management of the site through a conservation management plan and prohibited any development on the site. Lot 10 thus acted as an offset for the vegetation loss resulting from the subdivision. Correspondingly, Liverpool City Council ("Council") has repeatedly refused proposals to remove the Section 88B Restriction on the Use of Land for this site.

Lot 11 was registered in 2017 as part of the subdivision of Lot 110 DP1150684, which in turn was registered in 2010. A restriction on the use of land also exists for this parcel, mandating no alteration of native vegetation and requiring that the land be retained as bushland and managed through a management plan. These terms are set out in the Section 88B Instrument for DP1150684 and still apply, having not been removed as part of the subdivision creating DP1228445.

The high ecological value of the sites and the respective Section 88B Instruments are not appropriately reflected in the zoning of the subject sites. Accordingly, Council at its meeting on 7 February 2018 resolved to amend the Liverpool Local Environmental Plan 2008 ("LLEP") by rezoning the subject sites, being Lot 10 DP1003837 and Part Lot 11 DP1228445, from IN3 – Heavy Industrial to E2 – Environmental Conservation. The minimum lot size and maximum height of buildings controls will also be amended to reflect the proposed zoning.

Delegation of plan making functions

The matters considered in this planning proposal are considered to be of local significance. The proposed zoning is consistent with other ecologically significant sites in the Prestons industrial area, including Lot 1

DP1143246 (shown in Figure 6 below). It is considered that although the planning proposal includes a reduction in development potential when considering the planning controls, due to the Section 88B Restrictions on the Use of Land burdening the subject sites, no actual reduction of developable land results from the planning proposal. Council therefore requests delegation of plan making functions pursuant to Section 3.36 of the *Environmental Planning and Assessment Act 1979* ("EP&A Act"). The evaluation criteria is included in Appendix 1.



Figure 6: E2 zoning reflecting high ecological value of Lot 1 DP1143246 in Prestons

Part 1 – Objectives

The objectives of this planning proposal are:

- To protect threatened species and ecological communities on the sites;
- To facilitate better management of the sites of high ecological value; and
- To prevent development that could have adverse impacts on the ecological values of the sites.

Part 2 – Explanation of provisions

The objectives of the planning proposal will be achieved through changes to the planning controls listed in Table 2. The changes are visually mapped in Part 4 below.

Table 2: Current and proposed controls for the subject sites

Control	Current	Proposed
Zoning (LZN)	IN3 – Heavy Industrial	E2 – Environmental Conservation
Maximum height of buildings (HOB)	30m	N/A
Minimum lot size (LSZ)	2000sqm	N/A

To facilitate the above changes, the following LLEP maps will be amended:

Zoning

- 4900_COM_LZN_010_020_20161128
- 4900_COM_LZN_013_020_20160413

Maximum height of buildings

- 4900_COM_HOB_010_020_20161128
- 4900_COM_HOB_013_020_20160413

Minimum lot size

- 4900_COM_LSZ_010_020_20150402
- 4900_COM_LSZ_013_020_20160217

Part 3 – Justification

Section A – Need for the planning proposal

3.1 Is the planning proposal a result of any strategic study or report?

No, the planning proposal is not the result of any strategic study or report. The rezoning is prompted by an inconsistency between the zoning and the Restrictions on the Use of Land contained within Section 88B Instruments for the subject sites. With regard to this planning proposal, the Section 88B terms applying to the subject sites are listed in Table 3. The rezoning would be consistent with other lands of ecological significance within the Prestons industrial precinct, such as Lot 1 DP1143246, shown in Figure 6 above.

Table 3: Section 88B terms applying to the subject sites

Site	Term
Lot 10 DP1003837	The lot burdened is subject to a conservation management plan and development is prohibited.
Lot 11 DP1228445*	No clearing, altering or damaging of the lot burdened shall be permitted with the exception of the removal of noxious weeds or other exotic plant species.
	The lot burdened shall be retained as bushland and managed in accordance with the management plan held on by Liverpool City Council's file.

*The terms associated with Lot 11 DP1228445 are carried over from the Section 88B Instrument for DP1150684 from which the site was subdivided.

3.2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. The land use controls that currently apply to the land do not reflect the ecological values of the sites. Although the subject sites are currently burdened by Restrictions on Land Use through Section 88B Instruments, these restrictions can be lifted through Section 89 of the *Conveyancing Act 1919*. Rezoning to E2 provides greater protection for these sites of ecological significance. The rezoning will allow for the land use controls to appropriately reflect the Section 88B Instruments and the high ecological value of the sites. The rezoning will afford greater protection for the sites.

Section B – Relationship to strategic planning framework.

3.3 Is the planning proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?

A Metropolis of Three Cities and Western City District Plan

Rezoning the subject sites from IN3 – Heavy Industrial to E2 – Environmental Conservation offers better protection and management for threatened species and ecological communities. The planning proposal is therefore consistent with the following objective of the Greater Sydney Region Plan 2018, *A Metropolis of Three Cities*:

- Objective 27: Biodiversity is protected, urban bushland and remnant vegetation is enhanced
 - Strategy 27.1: Protect and enhance biodiversity by managing urban bushland and remnant vegetation as green infrastructure.

The planning proposal is also consistent with the following priority of the *Draft Western City District Plan*:

- Planning Priority W14: Protecting and enhancing bushland and biodiversity
 - Action 72b: Protect and enhance biodiversity by managing urban bushland and remnant vegetation as green infrastructure.

The sites are of high ecological value. *Acacia pubescens* and *Pultenaea parviflora* are observed on both sites. These are vulnerable species listed under the EPBC Act. Under the BC Act, the former is listed as vulnerable and the latter as endangered. Vegetation that can be classified as a mix of Cooks River/Castlereagh Ironbark Forest and Shale Gravel Transition Forest also occurs on both sites, both

endangered ecological communities under the BC Act and critically endangered ecological communities under the EPBC Act. The Cumberland Plain Land Snail (*Meridolum corneovirens*) and Native Pear (*Marsedenia viridiflora subsp. viridiflora*) may also be present on the subject sites, both listed as endangered under the BC Act.

The vegetation on the lots is considered to be of moderate to good condition with high native species richness and relatively low occurrence of exotic species. Lot 11 in particular is important in terms of regional connectivity as it adjoins vegetation along Maxwells Creek. Lot 10 is separated by Lyn Parade, but connectivity still exists for mobile fauna, including birds, bats, and insects. Notwithstanding the lower connectivity, the population of threatened ecological communities and species on Lot 10 (as well as Lot 11) is significant at the local and regional level.

The planning proposal is not inconsistent with Planning Priority W10: Maximising freight and logistics opportunities and planning and managing industrial and urban services land of the *Draft Western City District Plan* or Direction 1.9: Support priority economic sectors of *A Plan for Growing Sydney*. The current IN3 zoning of the site does not reflect the permissible uses on the site, as a result of the Section 88B Instruments and no loss of developable industrial or employment lands results from this planning proposal. The zoning also does not reflect the most suitable use of the site, due to the aforementioned ecological significance.

LEP Practice Note for Environmental Zones (PN09-002)

LEP Practice Note for Environmental Zones (PN09-002) provides guidance for the application of environmental protection zones in local environmental plans. It explains that environmental protection zones are to be used for land where the primary focus is the conservation and/or management of environmental values, and that “lands with very high conservation values such as [...] land containing endangered ecological communities” are examples of where the E2 zone should be applied. This is consistent with the planning proposal in that the subject sites have been retained as a vegetation offset and support endangered ecological communities and species.

PN09-002 also states that split zones may be considered on the same allotment, which is the case for Lot 11. The SP2 (Drainage) zoning is to be retained on the west of Lot 11 as the primary purpose of this site is drainage, and is considered to be a compatible use with the proposed E2 zone. It is understood that proposals “to zone land E2 need to be supported by a strategy or study that demonstrates the high (ecological, scientific, cultural or aesthetic values)”. The significance of the vegetation on the subject sites is highlighted in Liverpool’s Biodiversity Management Plan 2012, which is described in greater detail under section 3.4 of this report.

Northern Councils E Zone Review Final Recommendations Report

In considering environmental protection zones, the principles of the *Northern Councils E Zone Review Final Recommendations Report* can be used. It reiterates that “E2 and E3 zones will only be applied if the primary use of the land is considered to be environmental conservation (E2) or environmental management (E3) and the land contains attributes which meet one or more of the criteria for an E2 or E3 zone”. Primary use is defined in the report as “the main use for which the land has been used for the last two (2) years”; in this case the primary use is environmental conservation and protection of threatened ecological communities and species. The subject sites also meet the following criteria listed:

- Endangered ecological communities listed under the *Threatened Species Conservation Act 1995* (“TSC Act”) and/or the *Environment Protection and Biodiversity Conservation Act 1999*
 - Both the Cooks River/Castlereagh Ironbark Forest and Shale Gravel Transition Forest are listed as endangered ecological communities under the BC Act, which superseded the TSC Act, and critical endangered ecological communities under the EPBC Act.

- Land comprising over-cleared vegetation communities, where more than 70% of the original (pre 1750) extent of the native vegetation type has been cleared
 - In 2002, the distribution of Cooks River/Castlereagh Ironbark Forest was 8.3% of its original distribution¹. The 2002 extent of Shale Gravel Transition Forest was 31.7% of its original extent², which is marginally greater than the threshold, however, the extent has likely decreased in the 15 years since the study was undertaken.

As suggested by the *Northern Councils E Zone Review Final Recommendations Report*, verification of the high ecological value of the sites will be undertaken through a flora and fauna assessment, including field inspections, and an archaeological and Aboriginal heritage study.

NSW Government Architect's Draft Greener Places

The planning proposal is also consistent with the NSW Government Architect's draft *Greener Places*, in particular objective 1: *to protect, conserve and enhance NSW's network of green and open natural and cultural spaces*.

3.4 Is the planning proposal consistent with a council's local strategy or other local strategic plan?

Liverpool Community Strategic Plan – Our Home, Liverpool 2027

Protecting the sites of high ecological value and managing the threatened species and ecological communities aligns with Liverpool's Community Strategic Plan (CSP) – Our Home, Liverpool 2027, which states:

- Direction 2: Strengthening and Protecting Our Environment
 - Council will: Protect and enhance bushland, rivers and the visual landscape.

Liverpool Local Environmental Plan 2008

The planning proposal similarly addresses one of the aims of the LLEP, being "to protect and enhance the natural environment in Liverpool, incorporating ecologically sustainable development". Environmentally Significant Land controls apply to the subject sites and the planning proposal aligns with the following objectives of Clause 7.6 of the LLEP:

- To maintain bushland, wetlands and wildlife corridors of high conservation value, [...]
- To protect rare and threatened native flora and native fauna.



Figure 7: LLEP environmentally significant land overlay on the subject sites

¹ NSW National Parks and Wildlife Service 2002, *Native Vegetation of the Cumberland Plain – Final Edition*, NPWS, Sydney

² Ibid.

Biodiversity Management Plan 2012

The planning proposal also aligns with objectives of Liverpool's Biodiversity Management Plan 2012 (BMP), from which the LLEP environmentally significant land mapping is derived, including:

- Maintain, protect, enhance and restore naturally occurring ecosystems, populations and species within Liverpool LGA, based on best practice biodiversity principles so that:
 - Targets developed for the protection of the vegetation communities present are met;
 - A high level of connectivity between vegetation patches is achieved through the establishment of an effective corridor network;
 - Threats to listed species, populations and communities and their habitat are reduced; [...]
- Contribute and respond to the protection of biodiversity at a local, regional, State, National and International level

The BMP classifies the conservation significance of the site as regional core. The planning proposal meets the objectives of the regional core class:

- To protect remaining high conservation value vegetation;
- To protect and restore buffer areas to high conservation value vegetation;
- To protect the contribution of high conservation value vegetation has to regional and local connectivity areas.

Moreover, the planning proposal addresses Action SP1 of the BMP: incorporate biodiversity management principles into all future statutory planning documents.

3.5 Is the planning proposal consistent with applicable State Environmental Planning Policies?

State Environmental Planning Policy No 19 – Bushland in Urban Areas (SEPP 19)

The planning proposal is consistent with SEPP 19 as protecting the ecological values of the sites addresses the following aims, listed in Clause 2:

- 2a) To protect the remnant of plant communities which were once characteristic of land now within an urban area,*
- 2b) To retain bushland in parcels of a size and configuration which will enable the existing plant and animal communities to survive in the long term,*
- 2c) To protect rare and endangered flora and fauna species,*
- 2d) To protect habitats for native flora and fauna,*
- 2e) To protect wildlife corridors and vegetation links with other nearby bushland, [...]*
- 2n) To promote the management of bushland in a manner which protects and enhances the quality of the bushland and facilitates public enjoyment of the bushland compatible with its conservation.*

Furthermore, it responds to Clause 10 of SEPP 19, which states:

"When preparing draft local environmental plans for any land to which this Policy applies, other than rural land, the council shall: [...]"

- b) give priority to retaining bushland, unless it is satisfied that significant environmental, economic or social benefits will arise which outweigh the value of the bushland."*

The subject sites are of significant environmental value, created as offsets for industrial subdivision. Due to the Section 88B Instruments burdening the sites, they cannot be developed, and as such the value of the bushland outweighs the economic value of the sites. The rezoning will not impact adversely on the social values of the sites.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP)

The protection of the threatened ecological communities and species is consistent with the aims of the Vegetation SEPP, listed in Clause 3:

- a) To protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and
- b) To preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

3.6 Is the planning proposal consistent with applicable Ministerial Directions (s. 117 directions)?

S.117 Direction	Complies	Justification
Employment and Resources		
1.1 Business and Industrial Zones	Yes	The subject sites are zoned IN3 – Heavy Industrial. Despite the IN3 zoning, the Section 88B Restrictions on the Use of Land render both sites undevelopable. Consequently, the planning proposal does not reduce the amount of developable industrial or employment land.
Environment and Heritage		
2.1 Environment Protection Zones	Yes	The planning proposal, through rezoning the subject sites from IN3 – Heavy Industrial to E2 – Environmental Conservation, will directly protect the environmental significance of the sites.
Hazard and Risk		
4.3 Flood Prone Land	Yes	<p>Part of the subject sites is identified as flood prone land and within the flood planning areas.</p> <p>The rezoning will prohibit development on the sites that is incompatible with flood prone land. Further, it will maintain the existing vegetation buffer that reduces flooding risk for adjoining properties.</p> <p>No changes to flood development controls or provisions are proposed.</p> <p>The planning proposal is therefore consistent with the NSW Government's <i>Flood Prone Land Policy</i> and <i>Floodplain Development Manual</i> and this direction.</p>
4.4 Planning for Bushfire Protection	Yes	<p>Part of the subject sites is identified as bushfire prone land in accordance with Section 146 of the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>No development is proposed as part of the planning proposal; rather, it will restrict establishment of incompatible land uses on the bushfire prone land through the rezoning to E2 – Environmental Conservation and therefore it aligns with the objectives of the direction.</p> <p>Following gateway determination, consultation with the Commissioner of the NSW Rural Fire Service will be undertaken as stated in section 3.11 of this report</p>

Regional Planning		
5.10 Implementation of Regional Plans	Yes	The regional plan for Metropolitan Sydney is <i>A Plan for Growing Sydney</i> . Consistency with <i>A Plan for Growing Sydney</i> is demonstrated in section 3.3 of this report.
Local Plan Making		
6.1 Approval and Referral Requirements	Yes	The planning proposal does not contain provisions requiring additional concurrence, consultation, or referral to a Minister or public authorities.
Metropolitan Planning		
7.1 Implementation of A Plan for Growing Sydney	Yes	Consistency with <i>A Plan for Growing Sydney</i> is demonstrated in section 3.3 of this report.

Section C – Environmental, social, and economic impact

3.7 *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

The planning proposal will have a significant positive effect on threatened species, populations, and ecological communities. Rezoning the sites from IN3 – Heavy Industrial to E2 – Environmental Conservation will prohibit development that can adversely affect the threatened species, populations, and ecological communities listed under Table 1 above, and therefore allows for better protection and management of the sites of high ecological value.

3.8 *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

Appropriate management of the subject sites will also allow for enhancements to environmental values not associated with threatened species, including continual regional connectivity of the sites to the Maxwells Creek riparian corridor. Lot 11 in particular is important in terms of regional connectivity as it adjoins vegetation along Maxwells Creek. Lot 10 is separated by Lyn Parade, but connectivity still exists for mobile fauna, including birds, bats, and insects. The subject sites also provides a buffer against flooding impact for neighbouring buildings and assets. Conversely, vegetation on the sites allow for natural treatment of industrial effluent before entering Maxwells Creek.

It is therefore considered that the planning proposal will have a positive environmental impact.

3.9 *Has the planning proposal adequately addressed any social and economic effects?*

Although the planning proposal rezones land from IN3 – Heavy Industrial to E2 – Environmental Conservation, industrial development is not permitted due to the Restrictions on the Use of Land contained within the respective Section 88B Instruments. The sites are not currently used for employment purposes. As a result, the rezoning does not result in adverse economic impacts due to loss of jobs or developable employment lands.

Due to the proximity to Maxwells Creek and the relatively undisturbed nature of the sites, they may be of Aboriginal or archaeological significance. An archaeological and Aboriginal heritage study is proposed to be undertaken to assess this.

Section D – State and Commonwealth interests

3.10 *Is there adequate public infrastructure for the planning proposal?*

No public infrastructure is required to support this planning proposal.

3.11 What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

The views of state and Commonwealth public authorities will be considered following Gateway determination. The following government agencies should be considered:

- NSW Office of Environment and Heritage
- NSW Office of Environment and Heritage – Heritage Division
- NSW Rural Fire Service
- NSW Department of Industry
- Australian Department of the Environment and Energy

Part 4 – Mapping

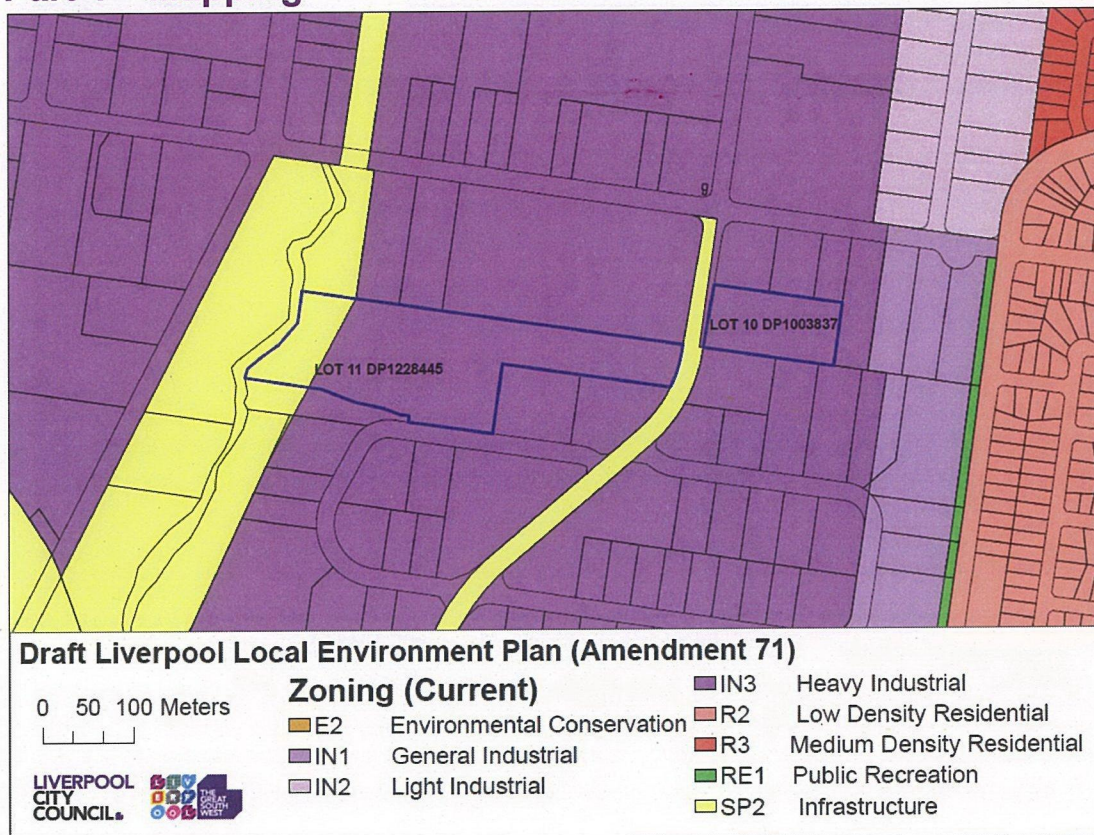


Figure 8: Current zoning

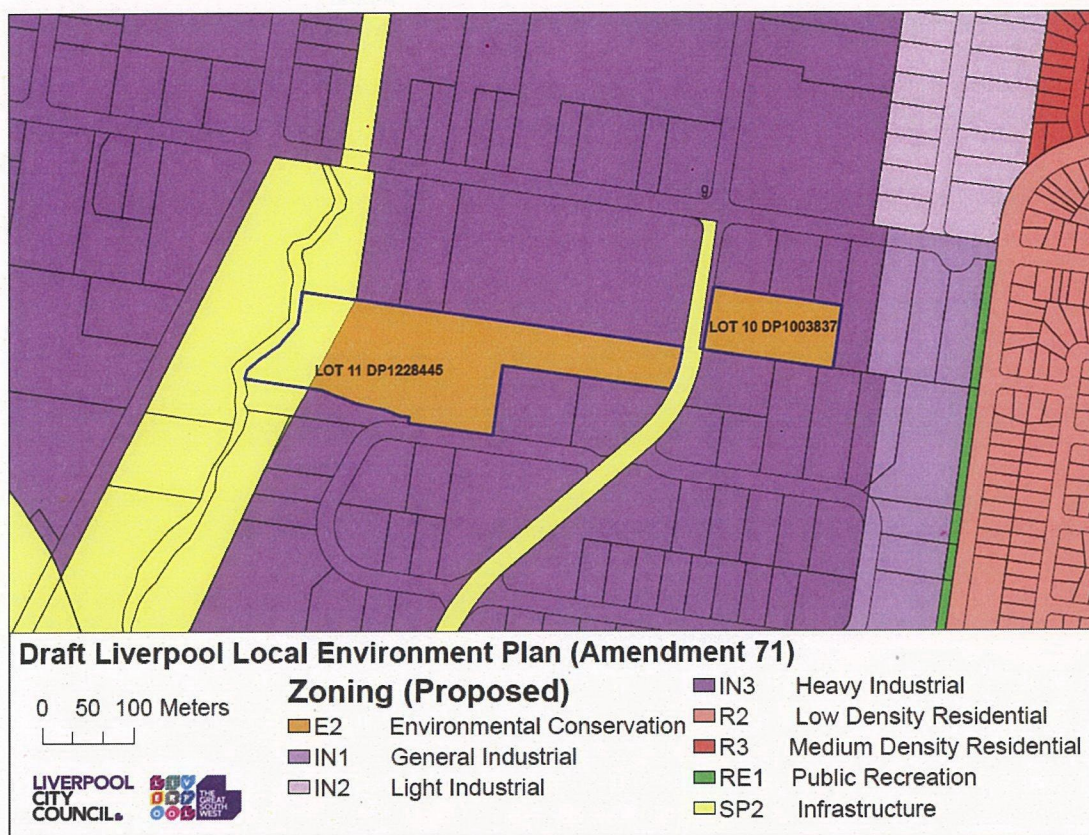


Figure 9: Proposed zoning

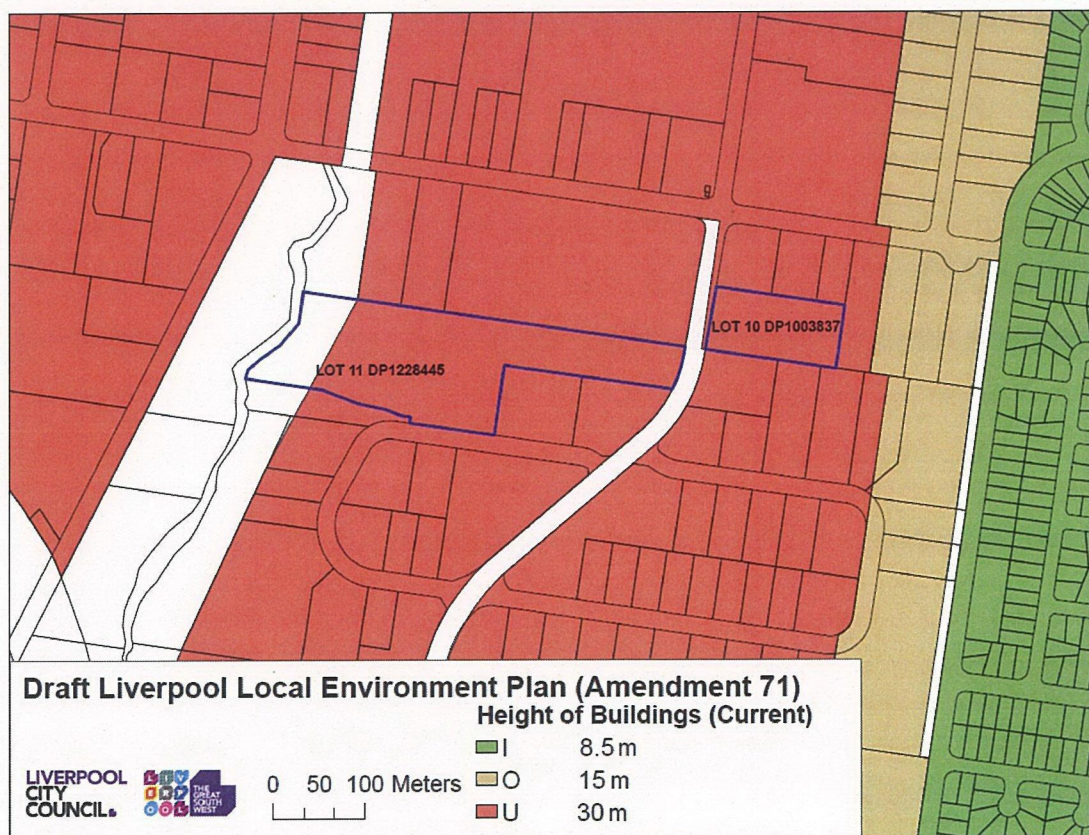


Figure 10: Current maximum height of buildings

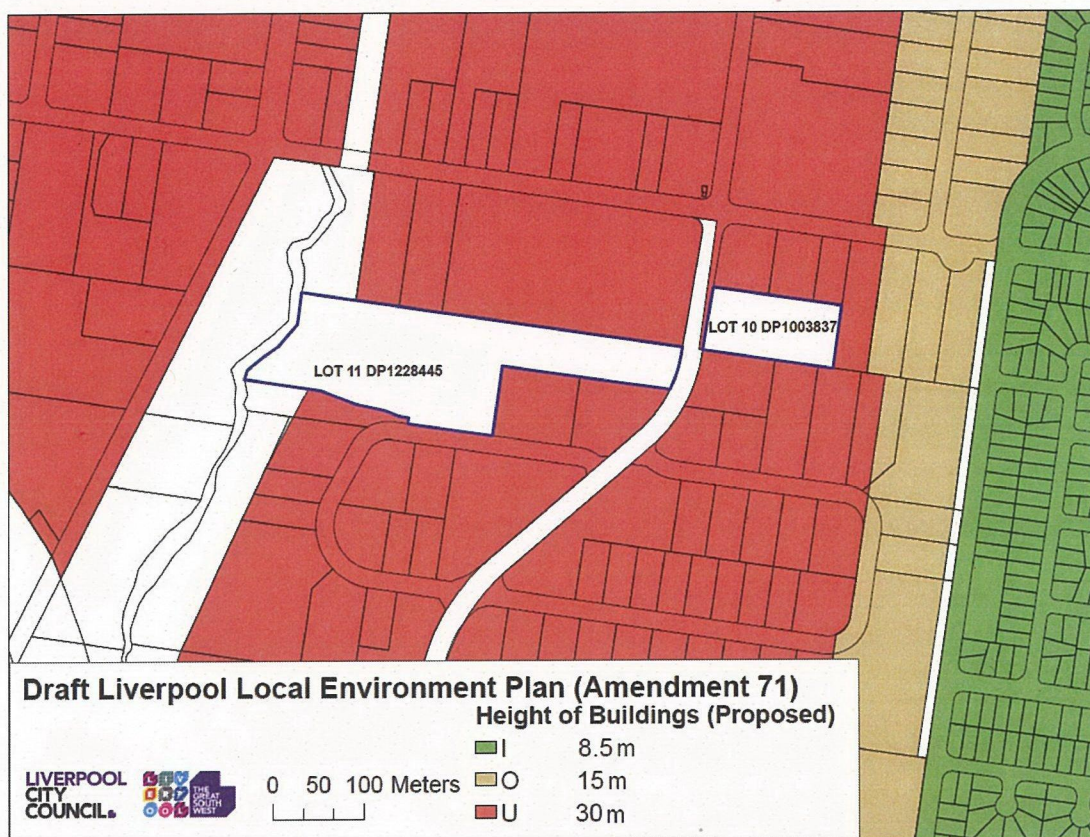


Figure 11: Proposed maximum height of buildings

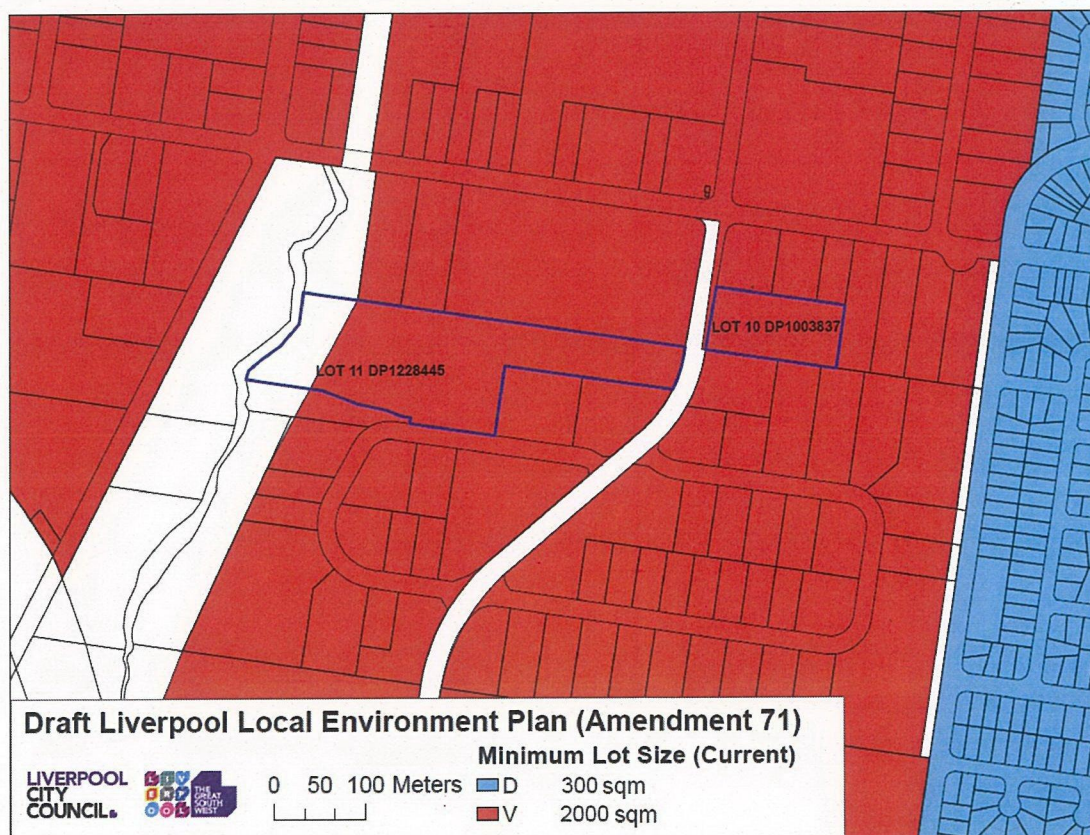


Figure 12: Current minimum lot size



Figure 13: Proposed minimum lot size

Part 5 – Community Consultation

Community consultation will be undertaken in accordance with the Gateway Determination. It is anticipated that the proposal will be exhibited for 28 days through:

- Newspaper advertisements in the Liverpool Leader;
- Notification on Liverpool City Council's public exhibition website; and
- Letters to the adjoining landowners.

Part 6 – Project Timeline

An anticipated project timeline is shown in Table 4.

Table 4: Anticipated project timeline

Timeframe	Action
March 2018	Submission of Planning Proposal to DP&E
April 2018	Gateway Determination issued
June 2018	Completion of required technical information
July 2018	State agency consultation
August 2018	Community consultation
September 2018	Public hearing if required
September 2018	Consideration of submissions and proposal post-exhibition
October 2018	Post-exhibition report to Council
November 2018	Drafting and making of the plan

Appendix 1: Evaluation criteria for the delegation of plan making functions

Local Government Area:

Liverpool City Council

Name of draft LEP

Liverpool Local Environmental Plan 2008 Draft Amendment 71

Address of Land (if applicable):

36 Lyn Parade, Prestons (Lot 10 DP1003837)

Part Lot 11 Progress Circuit, Prestons (Part Lot 11 DP1228445)

Intent of the draft LEP:

Rezone land from IN3 to E2 to reflect high ecological value of the sites and the Section 88B restrictions applying to the sites and to facilitate better protection and management of the sites.

Additional Supporting Points/Information:

- The matter is of local significance.
- The E2 zoning is consistent with other parcels of land within the Prestons industrial area of high ecological value, for example Lot 1 DP1143246.
- Although the planning proposal includes a reduction in development potential when considering the planning controls, due to the Section 88B Restrictions on the Use of Land burdening the subject sites, no actual reduction of developable land results from the planning proposal.

(NOTE – where the matter is identified as relevant and the requirement has not been met, Council is to attach information to explain why the matter has not been addressed)	Council Response		Department Assessment	
	Y/N	Not Relevant	Agree	Not Agree
Is the planning proposal consistent with the Standard Instrument Order, 2006?	Y			
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y			
Are appropriate maps included to identify the location of the site and the intent of the amendment?	Y			
Does the planning proposal contain details related to proposed consultation?	Y			
Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Director-General?	Y			
Does the planning proposal adequately address any consistency with all relevant S117 Planning Directions?	Y			
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y			
Minor Mapping Error Amendments	Y/N			
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?		N/A		
Heritage LEPs	Y/N			
Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?	N			
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?		N/A		
Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?	N			
Reclassifications	Y/N			
Is there an associated spot rezoning with the reclassification?		N/A		
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?		N/A		
Is the planning proposal proposed to rectify an anomaly in a classification?		N/A		
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?		N/A		
Will the draft LEP discharge any interests in public land under section 30 of the <i>Local Government Act, 1993</i> ?		N/A		
If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the planning proposal?		N/A		

Has the council identified that it will exhibit the planning proposal in accordance with the department's Practice Note (PN 09-003) <i>Classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land</i> ?		N/A		
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?		N/A		
Spot Rezoning	Y/N			
Will the proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?	Y			
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?	N			
Will the planning proposal deal with a previously deferred matter in an existing LEP and, if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?	N			
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?	N			
Does the planning proposal create an exception to a mapped development standard?	N			
Section 73A matters	Y/N			
Does the proposed instrument <ul style="list-style-type: none"> a. correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?; b. address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?; or c. deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land? 	N			